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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,616	06/30/2003	Ling Chen	1020.P16534	1415
57035	7590	07/24/2006	EXAMINER	
KACVINSKY LLC 4500 BROOKTREE ROAD SUITE 102 WEXFORD, PA 15090			NGUYEN, TANH Q	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/611,616	Applicant(s) CHEN, LING	
	Examiner Tanh Q. Nguyen	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 9, 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 3-5, 10-12, 15-17, 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "storing audio information...determining a frame boundary for said stored audio information", hence requires determining a frame boundary after audio information is stored.

Claim 3 (which depends on claim 2 which depends on claim 1) recites "said storing further comprises: determining whether said buffer location comprises said determined frame boundary", hence requires determining whether said buffer location comprises said determined frame boundary to occur during storing. Since said

Art Unit: 2182

determined frame boundary refers to the determined frame boundary recited in claim 1, the recitation of frame boundary in claim 3 contradicts the recitation of frame boundary in claim 1.

Claims 4-5 are rejected because they depend on claim 3.

Claims 6 and 10-12, 13 and 15-17, 18 and 21-23 generally correspond to claims 1 and 3-5, hence claims 10-12, 15-17, 21-23 are rejected on the same basis.

No prior art rejections are made with respect to claims 3-5, 10-12, 15-17, 21-23 since the claims, as recited, do not enable the examiner to interpret the claims without a great deal of speculations.

4. Claims 1-18, 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "said schedule" in line 6. There is insufficient antecedent basis for such limitation.

Claim 2 recites "said audio information" in line 3 and also in line 4. It is not clear whether such limitation refers to the audio information in line 2 of claim 1 or the audio information in line 2 of claim 2.

Claim 1 recites "said frame boundary" in line 6, claim 3 recites "said determined frame boundary" in lines 3-4 and "said frame boundary" in line 5, and claim 4 recites "said frame boundary" in line 3. It is not clear whether there "said determined frame boundary" and "said frame boundary" refer to the same frame boundary.

Claim 3 recites "said determination" in lines 5-6. It is not clear whether such

limitation refers to determining in line 4 of claim 1, or determining in line 3 of claim 3.

Claim 5 recites "said audio information" in line 5. It is not clear whether such limitation refers to the audio information in line 2 of claim 1, the audio information in line 2 of claim 2, or the audio information in line 4 of claim 5.

Claim 6 recites "said schedule" in line 9. There is insufficient antecedent basis for such limitation.

Claim 6 recites "said frame boundary" in line 9, claim 10 recites "said determined frame boundary" in line 2 and "said frame boundary" in line 3, and claim 11 recites "said frame boundary" in line 3. It is not clear whether there "said determined frame boundary" and "said frame boundary" refer to the same frame boundary. Furthermore, claim 10 recites "a frame boundary" in line 3. It appears that within the context of claim 10 that "said determined frame boundary" and "a frame boundary" refer to the same frame boundary.

Claim 12 recites "said audio information" in line 5. It is not clear whether such limitation refers to the audio information in line 2 of claim 9, or the audio information in line 3 of claim 12.

Claims 13-17 generally correspond to claims 1-5 and are rejected on the same bases - see rejections of claims 1-5 above.

Claims 18, 20-23 generally correspond to claims 6, 9-12 and are rejected on the same bases - see rejections of claims 6, 9-12 above.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2; 6-9; 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by **Parry et al. (USP 6,463,486)**.

7. As per claims 1-2, 13-14, **Parry** teaches a method and corresponding article comprising a storage medium that includes instructions to manage a buffer, comprising:

storing audio information in a circular buffer [124, FIGs. 6, 7; col. 7, lines 30-32; col. 7, lines 19-21];

scheduling access to said audio information by a plurality of components [126, FIGs. 6, 7; col. 8, lines 22-24];

determining a frame boundary for said stored audio information [determining start location and end location of data to be read [col. 11, lines 59-64; col. 12, lines 20-24]]; and

accessing said stored audio information by said components in accordance with said schedule [col. 7, lines 32-39] and said frame boundary [col. 12, lines 36-39],

wherein said storing comprises receiving audio information [col. 7, lines 30-32], identifying a buffer location to store said audio information [col. 8, lines 35-41; col. 11,

Art Unit: 2182

lines 14-16], and storing said audio information in said buffer location [col. 11, lines 14-16].

8. As per claims 6,9, Parry teaches an apparatus [FIG. 6] to perform media processing, comprising:

a circular buffer [124, FIGs. 6, 7];

an audio data module [122, FIGs. 6, 7; col. 7, lines 19-21] connected to said circular buffer;

a plurality of components [126, FIGs. 6, 7; 130, FIG. 6; col. 4, lines 55-57] connected to said circular buffer; and

a scheduling module [200, FIG. 7] connected to said audio data module and said components, said scheduling module to schedule access to said audio information stored by said circular buffer for said plurality of components, said audio data module to determine a frame boundary for said stored audio information, and said components to access said stored audio information in accordance with said schedule and said frame boundary (see rejections of claims 1-2, 12-13 above),

wherein the audio data module stores audio information in the circular buffer [col. 7, lines 30-32] by receiving audio information [col. 7, lines 30-32], identifying a buffer location to store the audio information [col. 8, lines 35-41; col. 11, lines 14-16], and storing said audio information in said buffer location [col. 11, lines 14-16],

9. As per claims 7-8, Parry further teaches the plurality of components comprising at least a voice encoder [effect filters [col. 20, lines 59-60]] and a preprocessing module [col. 20, lines 60-64];

the plurality of components comprising at least a data modem [col. 4, lines 55-57 and a voice decoder [120, FIGs. 5, 6];

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Parry et al.**.

12. Parry teaches and a system to process audio information [col. 1, lines 30-33], comprising a media processing device (the media processing device of claims 6, 9) for streaming media information over the Internet [col. 1, lines 30-33].

Perry therefore discloses the invention except for the system comprising a media gateway and a media gateway controller, and except for the media gateway and the media gateway controller being connected to the media processing device.

Since Parry teaches the media processing device streaming media information over the Internet, and since it was known in the art at the time the invention was made for a media gateway to stream media between a local network and the Internet, it would have been obvious to one of ordinary skill in the art at the time the invention was made to connect a media gateway and a corresponding media gateway controller to the

media processing device in order to stream data between a local network and the Internet.

Response to Arguments

13. Applicant's arguments filed May 9, 2006 have been fully considered but they are not persuasive.

14. With respect to the 112 rejections, applicant argued that the term "frame boundary" is consistent in the dependent and independent claim pairings discussed by the examiner. The argument is not persuasive because the method of claim 3 essentially comprises:

storing audio information (which comprises determining whether said buffer location comprises said determined frame boundary - as recited in claim 3) and
determining a frame boundary for said stored audio information - as recited in claim 1.

Note that "determining a frame boundary for said stored information" requires the frame boundary to be determined **after** the audio information is stored, yet storing the audio information comprises "determining whether said buffer location comprises said determined frame boundary" requiring the frame boundary to be already determined **before or during** the storage of the audio information.

15. With respect to the 102 and 103 rejections, applicant argued that Parry fails to teach "determining a frame boundary for stored audio information" because the portions

cited by the examiner merely discuss positions within a circular buffer.

The argument is not persuasive because the cited portions of Parry teach determining the boundaries of read data in a buffer (i.e. positions of the start and end locations of the data to be read), the buffer comprising a plurality of frames - hence determining a frame boundary for the stored audio information.

16. Applicant further argued that Parry does not disclose “determining boundaries of stored frames” and the cited portions do not discuss the characteristics of information (e.g. frames) stored within the circular buffer.

The argument is not persuasive because the recited claims do not preclude Parry from teaching “determining a frame boundary for the stored audio information”. Further, it is noted that the features upon which applicant relies (i.e., determining boundaries of stored frames or the characteristics of information) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion


17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh Q. Nguyen whose telephone number is 571-272-4154. The examiner can normally be reached on M-F 9:30AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Kim Huynh can be reached on 571-272-4147. The fax phone number for

Art Unit: 2182

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



07/20/2006

TQN
July 19, 2006